IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4542 OF 2003

Sau Vijaymohan @ Vijaykumar Petitioner

versus

Kumar Yash Shirish Kamble & ors. Respondents

Mr.Shaheen Pradhan for petitioner.

None for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd January 2006

PC :

1. Heard Shri Pradhan for petitioner-original defendant no.3. Notices have been served to respondents 1 to 5 as well as respondents 6 and 7.

2. This petition under Article 227 of the Constitution of India is directed against an interlocutory order passed by the Trial Court and confirmed by the Lower Appellate Court in Regular Civil Suit No.160 of 2003. It appears that there is a dispute as far as issuance of Leaving

Certificates of the original plaintiffs who are reportedly undergoing studies in Junior K.G. to 4th standard at New Millenium English School, Ichalkarangi.

3. When this petition was placed before this Court on 17th July 2003, initially an ad-interim order in terms of prayer clause (b) came to be granted. Later on, this Court recorded statement of petitioner's advocate that petitioner is ready to issue certificate for the period during which the said School was functioning. Today, when the matter appeared before me, Shri Pradhan on seeking instructions from the representative of the petitioner who is present in the Court, states that the Leaving Certificate in respect of respondent no.4 has already been issued, whereas, respondent no.5 was not a student of the concerned school. He also seeks to place on record the facts pertaining to respondent nos.1 to 3 as well.

4. In my view, in the light of the ad-interim stay granted by this Court and the further statement recorded, it would be desirable and in the interest of justice that the petitioner is allowed to withdraw this petition with liberty to

approach the Trial Court seeking appropriate modification and/or variation of the interlocutory order. Needless to state that such application, if made, would be dealt with on it's own merits and in accordance with law uninfluenced by the observations made earlier. Contentions of both sides in that behalf are expressly kept open. Petition disposed of.

(S.C.DHARMADHIKARI, J.)